



**Department of Correction Advisory Council**  
One Ashburton Place, Room 2133, Boston, Massachusetts  
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GOVERNOR

KERRY HEALEY  
LIEUTENANT GOVERNOR

SCOTT HARSHBARGER  
CHAIRMAN

June 17, 2005

Edward A. Flynn  
Secretary, Executive Office of Public Safety  
One Ashburton Place, Room 2133  
Boston, MA 02108

Dear Secretary Flynn:

I am pleased to present to you the preliminary report of the Department of Correction Advisory Council ("Advisory Council"), pursuant to Executive Order #461. This report provides an update on the implementation of the recommendations set forth in the report of the Governor's Commission on Corrections Reform (GCCR) issued on June 30, 2004, and highlights areas for further review.

As you recall, the GCCR report contained eighteen recommendations to promote public safety, accountability and fiscal responsibility. The recommendations were developed with the knowledge that the vast majority of state inmates will eventually be released, and yet nearly half of those released will be convicted of a new crime within just three-years. The GCCR called for tough but smart action to break this on-going cycle of crime, victimization and re-incarceration.

You will note that the Advisory Council's overall conclusion is that the DOC's progress thus far is impressive. We applaud Commissioner Kathleen Dennehy and her staff for using the GCCR report as a roadmap for change, and for making great strides over the past year. While much has been achieved, more work remains. The GCCR report set forth an ambitious, multi-year agenda that called upon a host of external stakeholders to take action as well. To this end, I must emphasize one of our major conclusions: the DOC cannot do it alone. Meaningful change will require action by a multitude of state and local stakeholders. We urge them to join with and support Commissioner Dennehy's efforts to achieve long-term gains in public safety and fiscal efficiency. John Gardner, the Head of Common Cause, wrote that "life is full of golden opportunities masked as insurmountable obstacles." This is one of those "golden opportunities" and our challenge is to seize this moment to dramatically improve public safety. It can be done, if we have the will and the requisite sense of urgency.

Sincerely,

Scott Harshbarger  
Chair, Department of Correction Advisory Council

# *The Commonwealth of Massachusetts*

## *Department of Correction Advisory Council*



## *Preliminary Report*

**Mitt Romney**  
*Governor*

**Kerry Healey**  
*Lieutenant Governor*

**Edward A. Flynn**  
*Secretary of Public Safety*

**Scott Harshbarger**  
*Chairman*

June 17, 2005

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District Attorney, Plymouth County

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State Senator  
Senate Chair, Public Safety Committee

Edward Davis  
Superintendent, Lowell Police Department

R. Michael Cassidy  
Professor, Boston College Law School

Michael V. Fair  
Security Response Technologies, Inc.

Elizabeth Childs, MD  
Commissioner, Department of Mental  
Health

Robert Hedlund  
State Senator

Elyse Clawson  
Executive Director, Crime and Justice  
Institute

Joyce Murphy  
President, Caritas Carney Hospital

Paul Cote  
Commissioner, Department of Public Health

Robert Watson  
Chairman & CEO, LPM Holding Company

Frank G. Cousins, Jr., Sheriff  
Essex County Sheriff's Department

Douglas H. Wilkins  
Partner, Anderson and Kreiger LLP

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Executive Director, Crime and Justice Institute

## DEPARTMENT OF CORRECTION ADVISORY COUNCIL PRELIMINARY REPORT

### I. INTRODUCTION

This is the preliminary report of the Department of Correction Advisory Council (the “Advisory Council”) established by Executive Order of Governor Mitt Romney on September 15, 2004. The Advisory Council is presently comprised of 14 members with broad expertise in corrections matters, and is chaired by former Attorney General Scott Harshbarger.<sup>1</sup> The Executive Order sets forth the purpose and responsibilities of the Advisory Council, and states, in relevant part, that the Advisory Council shall:

“monitor the implementation of reforms recommended by the Governor’s Commission on Corrections Reform; advocate on behalf of continued reforms; and where appropriate and necessary, propose modifications to the Commission’s recommendations in light of changed circumstances. The Council shall also submit recommendations relative to inmate health and mental health services, and issues pertaining to female offenders in the Department’s custody.”

The Advisory Council is staffed with two Co-Directors, and held its first meeting in December, 2004. There have been five subsequent meetings of the Council. In addition, the Advisory Council has been organized into three working groups to focus more specifically on: governance, programs and re-entry, and operational systems.

The Executive Order requires the Advisory Council to submit a preliminary report to the Secretary of Public Safety within 6 months, and a final report on September 15, 2005.<sup>2</sup> Our preliminary report follows this introduction.

#### ***The Report of the Governor’s Commission on Corrections Reform***

As the Executive Order indicates, one of the primary purposes of the Advisory Council is to monitor and support the implementation of the recommendations contained in the report of the Governor’s Commission on Corrections Reform (the “GCCR”). This report, entitled “***Strengthening Public Safety, Increasing Accountability, and Instituting Fiscal Responsibility in the Department of Correction***,” was issued on June 30, 2004. Based on findings and comments developed in the course of an 8-month review, the Report sets forth 18 specific recommendations for reforming the Department of Correction (the “DOC”), and was intended to serve as a blueprint for change.

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<sup>1</sup> The Executive Order calls for the appointment of an attorney with expertise in prisoner litigation or criminal defense and 2 members of the House of Representatives selected by the Speaker of the House. These appointments remain unfilled at this time although names were submitted for consideration.

<sup>2</sup> The members of the Council were not appointed, except for the Chair, until mid-November, 2004.

On September 4, 2003, Governor Romney and Secretary Edward Flynn formed a special panel to investigate the circumstances and conditions surrounding the death of a high profile inmate, former priest John Geoghan. Another inmate was later indicted for his murder. During the early part of this investigation, it became clear that there was a need for a more expansive review of the system, including the DOC's policies and procedures.<sup>3</sup>

As a result, on October 17, 2003, Governor Romney established the Governor's Commission on Corrections Reform chaired by former Attorney General Scott Harshbarger. The mandate of this "Blue Ribbon" Commission was to conduct a comprehensive review of the Department of Correction, including issues related to governance, operational systems, programs, re-entry, and budget. The GCCR consisted of 15 current and former corrections officials, legislators, community leaders, and criminal justice experts.<sup>4</sup>

In developing its recommendations, the GCCR conducted wide-ranging research on the DOC and on best practices throughout the country, keeping in mind at all times budget and fiscal constraints. Moreover, over the course of the GCCR's review, the former Commissioner of the DOC was replaced. The current Commissioner, Kathleen Dennehy, has served in the leadership role for just over one year, but had only held that position for a few months when the GCCR's report was issued.

The GCCR's report encompasses four major themes: enhancing public safety, system-wide accountability, fiscal discipline, and effective collaboration. These themes are set forth in greater detail below:

#### Enhancing Public Safety

The GCCR found that even though violent crime declined from the peak level that characterized the early 1990's, the volume of crime committed by those who are released from prison remains high. Those on the frontline of crime in our communities -- police, prosecutors, mayors, community activists and local service providers -- continue to call attention to the large numbers of released offenders returning to our communities with little or no preparation, support, or supervision.

The GCCR's recommendations were intended to reduce the likelihood that inmates who return to our communities will re-offend. The report acknowledged that this involves a comprehensive re-entry strategy, and that the DOC cannot meet this challenge on its own. However, it noted that research and experience indicate that the DOC -- with help from other agencies -- can take specific steps to reduce the likelihood of re-offense. To this end, the report set forth a comprehensive set of recommendations spanning the DOC's leadership, programs, operations, and budget. The recommendations began with the

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<sup>3</sup> Major Mark F. Delaney, Chief Mark Reilly, and George Camp, Ph.D., *Administrative Investigation; The Facts and Circumstances Surrounding the Events Which Led to Inmate Geoghan's Death on August 23, 2003*, (Released on February 3, 2004).

<sup>4</sup> Eight members of the Governor's Commission on Corrections Reform now serve on the Advisory Council.

premise that the Department must embrace a mission that includes reducing the rate of recidivism by released inmates, and that its budget allocation should more closely reflect its full set of priorities. In addition, it recommended that the DOC adopt an extensive re-entry planning process, beginning as soon as an inmate enters the system and extending through community release. Improved risk/need assessment, targeted and proven programming, enhanced classification, graduated step-down to release, and supervised release were all important components of a meaningful re-entry focus. Without all of these measures, we cannot predict maximum protection of the public safety through reduction of recidivism.

### Demanding System-wide Accountability

The GCCR report emphasized that the DOC's management, staff, and inmates must all become more accountable to each other and to the public. While it noted that the Department had several management systems in place to gauge various aspects of agency performance, none infused a strong sense of managerial and staff accountability. In addition, the existing systems did not evaluate how well the agency was achieving its mission and priorities.

Moreover, the GCCR concluded that a lack of accountability contributes to conflicts between written DOC policies and actual practices. The report noted that improved implementation of operational systems, such as classification, inmate discipline, inmate grievances, and internal investigations, would not only increase the levels of fairness and consistency, but would also make our prisons safer places to work and to live.

Finally, the GCCR's report found that the DOC does not adequately hold inmates accountable for participation in productive activities designed to reduce the likelihood that they will re-offend. While inmates themselves are responsible for their own actions, the Department should set high expectations, supported by incentives and sanctions, to encourage this process.

In order to improve accountability for managers, staff, and inmates, the report recommended that the DOC adopt a performance-based management and accountability system, strengthen management rights, and revise its existing rank structure. In addition, it recommended fair and consistent operational policies and procedures, including classification, discipline, grievances, and investigations. It stated that these policies and procedures must also be transparent, well-communicated, have specified appeals processes, and be implemented by staff who are appropriately selected, trained and supervised. The report also recommended the establishment of an independent investigative authority and an ongoing external advisory committee on corrections to improve the accountability and transparency of the entire DOC.<sup>5</sup> These systemic changes were intended to improve the culture of the institutions, living conditions for inmates, and working conditions for staff.

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<sup>5</sup> A first step to implementing this recommendation was the establishment of the Advisory Council.



## Instituting Fiscal Discipline

Another major focus of the GCCR's report pertained to the DOC's budget. The report found that over the past ten years, the DOC's operating expenditures rose from roughly \$287 million to \$438 million,<sup>6</sup> although the number of inmates in custody declined from 10,644 in 1994 to 9,886 in 2003. The GCCR found that the cost increases resulted in large part from rising labor costs, which comprised 73% of the DOC's total budget.<sup>7</sup> Between 1995 and 2003, staffing expenditures increased from \$200 million to \$312 million, a 56% increase.<sup>8</sup> An analysis of the staff-to-inmate ratio, labor contracts negotiated over the past decade, worker absenteeism, industrial accidents and overtime usage, revealed a startling pattern of weak management performance and leadership that was extremely costly to the Commonwealth and taxpayers.

Most notably, the report found that the high cost of staffing reflected the fact that correction officers use an average of 52 paid days off per year (including nearly 18 sick days), or the equivalent of one paid day off every week.<sup>9</sup> The total cost to the DOC for correction officer sick leave usage was approximately \$21 million per year.<sup>10</sup> In addition, the DOC had a high number of workers (313) out on industrial accident leave.

The report concluded that Department's leadership must ensure that the nearly half a billion tax dollars devoted to the DOC are better utilized to support long-term public safety. It recommended a reallocation of resources within the current budget of the Department of Correction to produce substantial improvements in public safety and efficiency, without compromising institutional security. The report specifically found that changes in management systems, organizational structure, the correction officer's labor contract, and labor management will improve the allocation of the DOC's public dollars. For example, reducing the number of days off used by correction officers by 12 days -- still leaving 8 weeks of paid time off per year -- would enable the DOC to recoup approximately \$14 million.

## Effective Collaboration

Finally, the GCCR's review emphasized that the Department of Correction does not operate in isolation. Rather, critical roles are played by the Legislature in defining criminal behavior and appropriating funds, the Courts in sentencing, the Parole Board in supervising inmates, and the human service sector in providing programming, community police, and county correctional services. The report identified some areas in which these

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<sup>6</sup> Adjusting for inflation, the growth in expenditures was 23% between 1994 and 2003.

<sup>7</sup> Presentation to the GCCR by Kyra Silva, Acting Budget Director, Massachusetts Department of Correction, March 24, 2004.

<sup>8</sup> Adjusting for inflation, the growth in staff expenditures was 29% between 1995 and 2003.

<sup>9</sup> Interview with Ronald Duval, Associate Commissioner of Administration, Massachusetts Department of Correction, June 28, 2004. These figures are for the time period of December 29, 2002 through December 27, 2003. According to the Department, these figures do not include active military duty.

<sup>10</sup> In making this calculation, the GCCR used the weighted average (\$88,000) cost for correction officers to determine a weekly cost per officer (\$1,692), and multiplied that by the number weeks of sick time utilized (3.5) and multiplied that by 3,600 correction officers.

external entities constrain the policies and practices of the DOC, and areas where improved cross-agency collaboration was critical.

The report urged the Commonwealth – not merely the DOC -- to make successful re-entry of inmates a public safety priority. A number of the recommendations concerning re-entry, including improving classification, availability of proven programs, “step-down” prior to release, and supervised release, are impractical unless broader reforms occur. For example, a 2004 examination of inmates in the DOC’s custody revealed that 84% were restricted by statute from participating in pre-release programming, a recipe for failure.<sup>11</sup>

### ***Summary of the GCCR’s Recommendations***

The GCCR stated that its recommendations were intended to be instituted together, and mutually reinforce one another in the interests of public safety and fiscal accountability. The 18 recommendations are as follows:

1. The Department should revise its mission to include reducing the rate of re-offense by inmates released into the community.
2. The Department should adopt a performance management and accountability system to enhance agency performance, improve the culture, and utilize budget resources more effectively.
3. The Department’s management capacity should be strengthened through the collective bargaining process and revisions to the internal rank structure.
4. There should be an external advisory board on corrections to monitor and oversee the Department. The board should work cooperatively with the Commissioner to develop concrete goals for the future of the Department.
5. The Department should take responsibility for bringing down staffing costs and reducing worker absenteeism.
6. The Department’s budget should be more closely aligned with its mission and priorities to enhance public safety in a fiscally responsible manner.
7. The Commonwealth must view reducing the rate of re-offense by returning inmates as one of its highest public safety priorities.
8. The Department should adopt a comprehensive re-entry strategy including risk assessment, proven programs, “step-down,” and supervised release.
9. The Department should hold inmates more accountable for participation in productive activities designed to reduce the likelihood that they will re-offend.

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<sup>11</sup> Massachusetts Department of Correction, *Policy and Statutory Restrictions Impact on Inmate Placement*, (Concord, MA: January 2004), p. 2

10. The Commonwealth and the Department should revise sentencing laws and DOC policies that create barriers to appropriate classification, programming, and “step-down.”
11. The Commonwealth should establish a presumption that DOC inmates who are released are subject to ongoing monitoring and supervision.
12. There should be a dedicated external review of inmate health and mental health services.
13. There should be a dedicated external review of issues pertaining to female offenders in the Department’s custody.
14. The Department should ensure that policies and procedures, including those related to inmate classification, discipline, and grievances, are transparent, well-communicated, have specified appeals processes, and are implemented by staff who are appropriately selected, trained and supervised.
15. The Department should ensure that policies and procedures are properly implemented through oversight and accountability systems, including an independent investigative authority, data management, and unit management.
16. The Department should conduct a system-wide facility review to ensure that its physical plant is consistent with the security needs of the staff and the inmate population, and the Department’s mission.
17. The Department should adequately protect and care for inmates in protective custody.
18. The Department should increase the linguistic diversity and cultural competence of its workforce.

### ***The DOC’s Response***

Within six weeks of the GCCR report, Commissioner Dennehy generated a comprehensive written response. On August 6, 2004 she issued the Department of Correction “***Feasibility Assessment and Strategic Implementation Plan Addressing the Major Recommendations of the Governor’s Commission on Corrections Reform.***” This document evaluates the feasibility of each of the GCCR’s 18 recommendations, and creates a strategic plan and timeline for implementation. The plans are reviewed, revised and updated on a monthly basis.

At each Advisory Council meeting, Commissioner Dennehy and her staff have provided detailed progress reports, including key accomplishments. They have also provided information on what they perceive to be some of the critical barriers to progress. In March, 2005, Commissioner Dennehy provided the Advisory Council with a written progress report on the recommendations entitled: “***Feasibility Re-Assessment and Strategic Plan***” (the “Strategic Plan”).

The GCCR report also recommended that dedicated external reviews be conducted on two topics: (1) inmate health and mental health services, and (2) issues pertaining to female inmates. The Executive Order establishing the Advisory Council requires the Council to provide recommendations on those topics. As a result, the DOC, in conjunction with the Advisory Council, established two separate review panels, comprised of external participants, to examine inmate health and mental health and female inmates. Two members of the Advisory Council sit on each review panel and the panels are staffed and supported by the DOC. Each panel had their first meeting in March, 2005, and plans to submit final reports to the council by the end of August.

### ***Additional Activities***

In addition to monitoring the progress of the GCCR report implementation, the Chair of the Advisory Council and others, including Commissioner Dennehy and the Undersecretary of Criminal Justice Patrick Bradley, have been engaged in other activities designed to support reform by raising awareness of the report's recommendations to audiences inside and outside of the DOC. These include speaking to all DOC managers, Training Academy graduates, and corrections reform advocates; speaking at and attending meetings of national correctional professionals at Northeastern College of Criminal Justice, and speaking at meetings of the county sheriffs and district attorneys regarding sentencing reform to promote effective classification, as well as various public forums like the Boston Bar Association, the Rappaport Institute and the League of Women Voters.

Full implementation of the recommendations requires "buy-in" from those inside the DOC, and action from individuals, agencies and organizations outside of the DOC. It is crucial that we continue to participate in efforts to engage others in this mission, because the DOC leadership is unable to achieve full implementation without internal and external support and action.

This Preliminary Report is based on the Advisory Council's review of both Commissioner Dennehy's feasibility assessments/strategic plans, along with the information we have gained at our meetings, and our collective discussions.

## **II. PROGRESS SUMMARY & RECOMMENDATIONS FOR REMOVING BARRIERS TO CHANGE**

### ***DOC Progress Summary***

The progress the DOC has made since July, 2004 is impressive. We commend Commissioner Dennehy and her staff for making significant strides and for utilizing the GCCR report as a roadmap to improve public safety, accountability, and fiscal responsibility.

The DOC has actively sought to implement each of the recommendations of the GCCR report that are within the agency's control. Each recommendation has been put on an implementation timeline, and concrete action steps have been defined, assigned to responsible parties, and monitored. Training requirements, staffing needs, best practice research and outcomes have also been spelled out.

We note that the important task of communicating a clear, credible message for reform, supported by action, is being achieved. The Advisory Council has heard from numerous members of the DOC management staff, and we are impressed by the ownership they are taking for accomplishing the recommendations. It is apparent that managers view implementation of the GCCR recommendations as an integral part of their work.

We acknowledge that, in many areas, demonstrable results will require a sustained effort over several years. We are pleased with how much has been accomplished in nearly one year, and we hope to see more concrete evidence of progress as time goes on. We are particularly pleased with the DOC's progress in the following areas:

- Revising various internal policies regarding certain categories of inmates that served as impediments to successful re-entry;
- Amending the disciplinary policy and creating a central disciplinary unit with a director;
- Improving the administration and investigation of Industrial Accident cases in order to realize a significant drop in the number of reported injuries and notable increase in the number of fraud investigations initiated;
- Establishing the position of Associate Commissioner for Re-entry and Reintegration;
- Hiring an Executive Director of Strategic Planning and Research;
- Amending the grievance process to eliminate conflicts of interest in investigations and the appeals process, and analyzing information from grievance correspondence, disciplinary reports, and investigations for trends;
- Amending the internal investigations process; and

- Hiring a Director of Affirmative Action to focus on recruiting more bilingual and culturally diverse staff.

### ***Areas for Further Review***

In nearly one year's time, the DOC has made important strides in implementing many of the eighteen recommendations of the GCCR report that are within its control. At this relatively early stage, our assessment is largely based upon improvements to process and policy. There are several measures which would indicate to the Advisory Council that the implementation is producing demonstrable results. Specifically, we would like on-going updates and data concerning: (1) overtime expenditures; (2) officer sick leave usage; (3) industrial accident claims; (4) the overall DOC budget, with the percentage allocated to staffing costs and to inmate programs, treatment and services; (5) the number of inmates on waiting lists for programming and participating in programs; (6) the number of inmates released by security level; (7) the number of inmates housed in each level of security; (8) the percentage of inmates released under parole supervision; (9) the percentage of inmates paroled from maximum and minimum security facilities; (10) the rate of overrides for inmate classification; (11) the waiting list for inmates classified to minimum and pre-release status; (12) the approval rate for inmate grievances; (13) data regarding disciplinary reports; (14) the number of allegations and investigations initiated for employee misconduct; (15) the number and security level of new beds and closed beds (as relevant); and (16) the percentage of the workforce that is linguistically and culturally diverse. In each of these areas, we would like the DOC to provide specific outcomes to target.

The GCCR report strongly recommended re-allocating the existing DOC budget to promote public safety in a fiscally responsible manner. We acknowledge that there are no "excess" funds in the DOC budget to re-distribute. However, the GCCR report concluded that, among other things, by reducing officer sick leave usage and overtime usage, the DOC could recoup resources and apply them to enhancing inmate re-entry and public safety. While these are two of the most difficult areas for the DOC to address, they are critically needed. In the year since the GCCR report was released, the sick days used per officer rose from an average of 17.6 days to 18.2 days per year, and the estimated year end overtime total has grown from \$10.4 million to over \$13.7 million.<sup>12</sup> The DOC attributes the rise in these figures to an increase in retirees from 214 in 2004 to 260 thus far this year.<sup>13</sup> While we are disappointed to see that these numbers rose this year, we do appreciate the fact that these issues are complex. Bringing down sick leave and overtime usage will require a multi-year, multi-faceted approach that includes revisions to the sick leave language in the current collective bargaining agreement, and strong management techniques.

Finally, this report does not comment extensively on the important issue of inmate classification. The GCCR report found that the existing classification system is overly reliant on subjective-decision making and the use of overrides. As a result, inmates are

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<sup>12</sup> Department of Correction, May, 2005.

<sup>13</sup> Department of Correction, June 8, 2005.

over classified and this over classification costs the citizens of the Commonwealth in financial and public safety terms. The GCCR recommended that the DOC adopt a research-based, objective classification system with appropriate procedures and trained staff to implement it. Most prison systems use a point-based system for classification. Such systems are research-based, and designed to minimize disturbances within the prison system, to ease prison administration, and to facilitate step-down prior to release. In addition, if consistently applied, these systems are transparent to staff and to inmates.

The Department has since developed a proposal for an objective, point-based classification system to replace the current highly discretionary process. Because we have seen that inconsistently applied classification practices can contribute to disturbances and even violence, the Advisory Council is eager to have an objective system put in place as soon as possible. We have not seen the details of the proposed classification policy, so we cannot yet comment on the particulars. We are hopeful, however, that the new policy will support the other efforts of the Department to place inmates in correctional settings that are appropriate to their current level of risk to public safety so that programming options can be developed to help prepare inmates to release with the goal of improving public safety in the long term. The Council also urges that the new policy be reviewed and adopted as quickly as possible because several other recommendations in the GCCR report depend on classification reform.

### ***Recommendations for Removing Barriers to Change***

Several significant barriers exist that limit the DOC's ability to implement the GCCR's recommendations. Some of the barriers exist within the DOC, and others are external to the agency. In both instances, the barriers present significant challenges, if not roadblocks, to achieving the goals of the GCCR's report. We urge all stakeholders to act to help remove these barriers so that the important work of improving public safety and ensuring fiscal accountability can proceed with at least "all deliberate speed."

**Reducing recidivism by returning inmates must be a statewide public safety priority, and involve a multitude of state and local agencies and community-based service providers.**

The GCCR report stated that improving re-entry of inmates is a crucial public safety initiative due to two important facts: (1) the vast majority of inmates (97%) are eventually released to our communities; and (2) nearly one out of every two of those released will be convicted of a new crime within just three years.<sup>14</sup>

While alarming, this high rate of re-offense is not totally surprising given that many of those released from prison walk directly out of a maximum security facility onto the street, and most of those released do not have any ongoing monitoring or supervision. We can do more to ensure that inmates come out of prison less dangerous when they

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<sup>14</sup> GCCR report page i.

went in. There must be a comprehensive effort to improve inmate re-entry and to break the continuous cycle of re-offending.

In GCCR recommendation #7, the report stated: “*The Commonwealth must view reducing the rate of re-offense by returning inmates as one of its highest public safety priorities.*” After reviewing the research and data, the GCCR report determined that there are certain steps that can be taken to reduce re-offending. Improved re-entry of inmates, i.e., targeted programming, “step-down,” and supervised release, can reducing the rate of re-offense by returning inmates.

While “re-entry” has become an important concept in corrections, it is not exclusively the responsibility of the prisons. Clearly, the DOC has a vital role to play in ensuring that inmates participate in programs designed to reduce recidivism, and transition back to the community in the most effective manner possible. However, many other agencies and organizations have equally significant roles and responsibilities and they must also make reduction of recidivism a priority.

With leadership and support from the Executive Office of Public Safety, the Department of Correction has been working closely with the Parole Board to improve prisoner re-entry by aligning mission and vision statements and practices and policies in order to smooth inmates’ transition from prison to life in the community. In addition, the Parole Board has developed a program for those released without any criminal justice supervision following release from prison. While we have not systematically reviewed these efforts, we applaud the intent behind them.

In addition, we note that the DOC’s mission has become increasingly interconnected with that of human service agencies such as DPH and DMH. Serious substance abuse and mental health issues plague vast numbers of the DOC population. As such, close coordination of efforts between criminal justice and human service agencies around the issue of treatment in the community could enhance prevention and help to build a strong continuum of care for inmates released back to the community.

Our impression is that the Department is a willing partner, and there is currently a window of opportunity for serious reform to make our system more effective at reducing re-offense. Therefore, we encourage other government and non-governmental agencies concerned with prison inmates or the communities to which they return, to work productively with the Department of Correction to improve prisoner re-entry in the Commonwealth. This important work cannot be left to the DOC alone.

**Swift legislative action must be taken to: (1) improve public safety through effective re-entry; and (2) establish an independent inspector general for corrections.**

### *Re-entry Legislation*



The GCCR found that “successful re-entry of prisoners back to the community is limited by state sentencing laws and practices, as well as DOC policies, which directly impact inmate classification, programming options, pre-release, and supervised release. The DOC will be unable to fully implement a comprehensive re-entry plan until these areas are revised.”<sup>15</sup> The DOC has made progress in revising many of the internal policies that restricted effective programming, placement and step-down. State sentencing laws and practices, however, have not changed.

It is crucial to note that at the time of the GCCR report, 84% of the inmate population was restricted by law from participating in pre-release programming (i.e., work release, education release and pre-release centers).<sup>16</sup> These statutory restrictions on re-entry include:

- ***Mandatory minimum sentences.*** These statutes specifically prohibit work release or pre-release for the entire mandatory portion of the sentence. Mandatory minimum sentences are generally crimes of violence, firearms offenses, drug offenses, and driving under the influence offenses. There are 1,441 offenders in the DOC with a mandatory drug offense, representing 16% of the population.<sup>17</sup>
- ***Parole eligibility.*** By law the Commissioner may permit inmates to participate in pre-release programs *if they are within 18 months of parole eligibility* (43% of DOC inmates were not within 18 months of parole eligibility in December, 2003).<sup>18</sup>
- ***Prohibited crimes.*** A law restricts inmates convicted of certain enumerated offenses, although within 18 months of parole eligibility, from participation in pre-release programs except upon recommendation of the superintendent.<sup>19</sup>
- ***Work release limits.*** Various laws permit work release during the mandatory term of the sentence, only in the custody of an officer, upon recommendation of a superintendent.<sup>20</sup>

In addition, the GCCR report emphasized the importance of post-release supervision as part of a comprehensive effort to reduce re-offense by returning inmates. The Administration, under the leadership of Lt. Governor Healy, has filed a bill regarding mandatory post-release supervision which is currently pending before the Legislature. The Advisory Council strongly supports the concept of mandatory post release supervision, particularly for high risk offenders.

### ***Sentencing Practices***

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<sup>15</sup> GCCR report page 43.

<sup>16</sup> Massachusetts Department of Correction, *Policy and Statutory Restrictions Impact on Inmate Placement*, (Concord, MA: January 2004)

<sup>17</sup> Massachusetts Department of Correction, Research and Planning Division January 1, 2003 Inmate Statistics, (Concord, MA: 2004), p. 22.

<sup>18</sup> MGL c. 127, sec. 49, emphasis supplied.

<sup>19</sup> Ibid.

<sup>20</sup> See MGL c. 90, sec. 23, 24, 24G and 24L.

According to the Massachusetts Sentencing Commission, 47% of offenders with a state prison sentence in 2002 received a sentence with only a one day difference between the minimum and maximum sentence.<sup>21</sup> This common sentencing practice by judges in effect precludes appropriate step-down, gradual re-entry, and parole supervision for suitable inmates. Judges should be educated about the unintended consequences of this type of sentence.

As the GCCR Report specified, there are numerous ways to reform existing laws to eliminate obstacles to “step-down,” programming and post-release supervision. ***We urge the Legislature, Governor, District Attorneys, Sheriffs, and advocacy groups to act swiftly to pass legislation to improve re-entry and expand supervised release of inmates. This can be accomplished without reducing the length of prison sentences.*** Improved re-entry will enhance public safety for Massachusetts citizens and reduce the rate of re-offense by returning inmates.

### ***Inspector General for Corrections***

The GCCR report found that there were serious shortcomings in the way that internal investigations were conducted at DOC institutions. As such, the GCCR concluded that outside review, as part of an overall reform and upgrading of the investigative process, would eliminate some major flaws in the system. Its report stated that, “...outside investigations operate both as a safeguard against biased or incomplete DOC investigations *and* as an incentive to improve the quality, thoroughness and objectivity of the Department’s internal investigations.”<sup>22</sup>

While fully independent of the Department, any system establishing an Inspector General should also preserve the DOC’s ability and responsibility to investigate complaints and incidents in the first instance. The Inspector General should also conduct performance reviews to train and provide feedback to DOC investigators. Independent performance reviews would reinforce good investigatory practices and would permit the Department to sanction investigators who consistently fail to meet standards of competence.

The establishment of an independent Inspector General requires legislation. ***We strongly support establishing an independent Inspector General and urge prompt Executive and Legislative action.*** However, we recommend that both the Advisory Council and the DOC have input on the language of any legislation establishing an Inspector General, to ensure that the office would have the capacity, resources and authority to operate effectively.

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<sup>21</sup> State of Massachusetts, *Survey of Sentencing Practices, FY 2002*, (Boston, MA: Massachusetts Sentencing Commission, May 2003), p. 31.

<sup>22</sup> GCCR report, p. 60.

**The leadership of the correction officers union should support, rather than undermine, the DOC's efforts to bring about positive change.**

One of the major forces of resistance to the changes recommended by the GCCR and the Commissioner's efforts to change culture has come from the leadership of one labor union, MCOFU, representing DOC corrections officers. The Commissioner and her management staff have been the target of numerous disruptions and attacks on their leadership and character. These on-going disruptions, such as picketing Superintendents' homes, appear to be in reaction to the Commissioner's demands for acceptable employee conduct, greater staff accountability, and, most significantly, long overdue assertions of managerial and fiscal responsibility.

The GCCR was charged with, among other things, examining the DOC budget. In the course of that review, the group found that one of the primary reasons for growth in the DOC budget (totaling nearly a half billion dollars), was the rising cost of labor over the past decade, which comprised 73% of the total DOC budget. The high cost of staffing reflected a number of factors, including fact that correction officers used an average of 60 days off per year, of which 52 were paid (including nearly 18 sick days per year). The total cost to the Department for correction officer sick leave usage was approximately \$21 million per year.

In addition, the GCCR examined the existing labor contract and found that it was distinguished by weak management rights' provisions, large salary increases of 70% - 77% since 1992 (Massachusetts' correctional officers are the third highest paid in the nation according to the Bureau of Labor Statistics),<sup>23</sup> <sup>24</sup>and generous sick leave provisions, including 5 unsubstantiated sick days per officer per year. Finally, the GCCR noted that the DOC's staff-to-inmate ratio was the second highest in the nation, which also contributes to high staffing costs.

In light of these data, the GCCR report recommended a number of specific steps the DOC should take to bring down the high costs of staffing both in the collective bargaining process and through stronger management techniques.

For example, the GCCR recommended revising the labor contract to:

- Strengthen fundamental management functions (many of which were bargained away over the past decade).

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<sup>23</sup> The top state for correctional officers and jailers pay is New Jersey, followed by California and Massachusetts. Bureau of Labor Statistics Occupational Employment Statistics, *Occupational Employment and Wages 2002*, [www.bls.gov](http://www.bls.gov)

<sup>24</sup> The GCCR found that the increases in correction officer salaries, as negotiated by management and state officials in the last four labor contracts, were significant compared to other wage earners in Massachusetts. Correction officers' salaries increased by between 70% and 77% since 1992, or between 29% and 36% adjusted for inflation. By comparison, all Massachusetts wage earners gained only 17.9% in their inflation-adjusted salaries over the same period. The salaries of U.S. citizens as a whole increased 10.7% in the same time frame.

- Address the high costs of employee absenteeism and overtime pay, including eliminating the provision for every officer to take 5 *unsubstantiated* sick days per year.
- Address the fact that five full-time employees on the executive board of the union are paid by the DOC to administer various aspects of the correction officer contract on behalf of the union. The total cost to the DOC of this practice is approximately \$455,000 per year.
- Eliminate a number of the labor/management committees (there are 18) established in the contract. Committee members are paid out of the Department's budget for their participation.

To date, MCOFU's leadership has been unwilling to support much-needed changes in management and fiscal responsibility. While the majority of staff and labor unions seem inclined to support change, the present intention of MCOFU's leadership appears to be to undermine the DOC leadership's efforts to bring about positive change. This is clearly reflected by a breakdown of labor contract negotiations with state officials.<sup>25</sup> Virtually all the other unions representing DOC employees have either signed new collective bargaining agreements, or have tentative agreements that are pending ratification.

The DOC has properly anticipated internal resistance to change. Change is always hard and can rarely be effected without strife, no matter how reasonable, overdue and common sense it may seem to be. However, especially with professionals, there is an expectation of some level of civility and order, at all levels. The Commissioner's response and that of top management appear consistent and appropriate, as the best way to effect change and deal with resistance is to provide a consistent and credible direction from above, with clear and predictable consequences. Support from all quarters, including the Executive Office of Public Safety and the Governor's office, must also be equally clear and consistent.

We urge the leaders of MCOFU to understand that, for all of the dangers and difficulties that correction officers face, the Department must be managed and led in a new direction. We believe that the leadership of the unions could add immeasurably to the progress that has been made to date, while remaining committed advocates for the interests of their members. It is our sincere hope that they will become meaningful partners in this effort as soon as possible.

**The Department of Correction budget should not be reduced below the House 1 recommendation; however, the DOC must continue efforts to reallocate its resources.**

<sup>25</sup> MCOFU's labor contract expired in December, 2003 but remains in effect due to an 'evergreen clause.'

The Department of Correction's budget for FY05 totaled nearly \$430 million.<sup>26</sup> The overwhelming majority of that budget (73% in 2004) is spent on staffing-related expenses. By contrast, the GCCR noted that only 3% of the DOC's 2004 budget was spent on inmate programs.<sup>27</sup> The overall cost to the Commonwealth for the Department's staffing expenditures is nearly \$310 million per year.

In its report, the GCCR analyzed the DOC's budget and expenditures. Ultimately the Commission recommended that, at a minimum, the DOC's funding be sustained at the same level, but *reallocated* to ensure that expenditures more closely reflect the DOC's mission and priorities.

To accomplish this reallocation, the GCCR recommended that the Department take responsibility for bringing down staffing costs and reducing worker absenteeism. However, the DOC will not be able to fully achieve these goals unless the correction officers' labor contract is successfully renegotiated and stronger management techniques are adopted. If this is accomplished, the Advisory Council recognizes that the resulting budget reallocation will not be immediate. Rather, it will be the result of a sustained effort to shift resources over time.

The FY06 House 1 Recommended Budget appropriation is \$435,882,283, while the \$430,764,325 recommended by House Ways and Means (HWM) in its FY06 Amended Budget appropriation is considerably less. The HWM recommendation is \$1,149,000 more than the DOC's previous budget, but of that amount over 1.5 million dollars is earmarked for cities and towns hosting DOC facilities and other recipients. Therefore, the amended HWM budget represents a cut of more than 5 million dollars from the House 1 budget recommendation. The Senate Ways and Means (SWM) Committee recommended \$434,294, 878, an increase over the HWM recommendation.

The \$6,257,958 increase that the House 1 recommendation represents over the DOC's FY05 budget will help the DOC achieve some of its major goals by paying for the salaries for 240 correction officers to backfill or fill vacant positions and reduce overtime, and contract increases for inmate medical services. The Department of Correction Advisory Council strongly endorses the restoration of the budget to the House 1 recommended appropriation.

### ***Conclusion***

During this first year, the DOC has made meaningful progress in implementing most of the eighteen recommendations of the GCCR report that are within its control. Now that we are familiar with the DOC's strategic plan, we would like to continue to see information and relevant data necessary to evaluate current trends and conditions,

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<sup>26</sup> Of that amount, \$2,689,500 was earmarked for cities and towns hosting DOC facilities, for emergency equipment safety grants and other expenses, reducing the total operating budget to \$426,934,825.

<sup>27</sup> The DOC has since determined that for FY05, while only 3% of the DOC budget is for programmatic contracts, 11.72% (or \$50,351,560) of the Department's budget is allocated to inmate programs when the salaries of the staff, teachers, chaplains and others who contribute to programs are included.

including the 16 indicators listed previously in this section. This data will allow us to chart progress over time, and better assess the impact of the short-term changes that have occurred.

We eagerly anticipate an opportunity to review a revised classification system, as well as the reports back from the working groups on female offenders and health and mental health. This information will be central to our final report. Moreover, we will continue to monitor the re-allocation of the DOC budget, including the rate of employee absenteeism and overtime usage.

We conclude by emphasizing the fact that the internal and external barriers to implementation that presently exist are significant. We hope that all relevant stakeholders, including the Legislature, Governor, Executive Office of Public Safety, state and local criminal justice and human service agencies, and labor unions will take action to help achieve the vital goals of reducing recidivism, strengthening public safety and attaining fiscal efficiency set forth in the GCCR report.

### **III. REVIEW OF THE DOC'S STRATEGIC PLAN AND FEASIBILITY RE-ASSESSMENT**

Having reviewed the DOC's Strategic Plan and Feasibility Re-Assessment and supporting documentation, we offer the following comments on the Department's progress to date, and some suggestions for future steps to be taken by the DOC.

#### **LEADERSHIP AND ACCOUNTABILITY**

**Recommendation #1: The Department should revise its mission to include reducing the rate of re-offense by inmates released into the community.**

The Department revised its vision and mission statement in January 2004. The mission statement currently provides that the DOC's mission is to "promote public safety by incarcerating offenders while providing opportunities for participation in effective programming designed to reduce recidivism." The GCCR report applauded the new mission, but recommended that the language concerning "providing opportunities for participation in effective programming" be strengthened. Specifically, the DOC should include lowering the rate of re-offense by released inmates by a measurable amount in the mission statement.

The Department certainly acknowledges the significance of memorializing the importance of reducing the rate of re-offense in their mission statement; however they believe that the broader mission statement must be operationalized in more specific and measurable goals. In addition, according to the DOC, the revised mission language was carefully chosen because DOC cannot compel inmates to participate in work, education or treatment programs. They are offered, encouraged and monitored but cannot be required.

The DOC's strategic plan has correctly identified several significant issues it must address to implement this recommendation, including: 1) gaining the participation of many agencies and stakeholders – reducing recidivism is by no means the sole responsibility of corrections; 2) establishing standard criteria for the definition of recidivism; 3) revising laws that impede effective re-entry; and 4) budget constraints that impede access to education and programming.

The Advisory Council believes that, while data are certainly necessary, GCCR recommendation #1 is not simply about "establishing measurable goals relative to reducing the rate of offender's re-offense". Rather, it relates to the programs and policies themselves, as they may effect recidivism, as well as the need for culture change. We would like more concrete information about the status of actual educational/vocational/treatment programs. We know that the Commissioner and the Associate Commissioner of Re-entry and Reintegration are focused on bolstering those

programs. However, we would caution against too much emphasis on the “data-driven” aspect of the GCCR’s recommendation, at the expense of the key point -- the quality and availability of the programs themselves.

For instance, it is appropriate for DOC to say that “[d]ue to recent budgetary impacts, education and programming is limited. The DOC will undertake a complete inventory and assessment of all existing programs and education services”. This is a crucial challenge, though, and we would have expected this inventory to move faster. What, realistically, can be done with existing resources? If more can not be done, what is the remedy?

We support data development, collection and review. We agree with DOC that both short-term and long-term definitions of recidivism will need to be used, at least for a while because (1) it allows comparison with other agencies and (2) long-term (3 year) definitions have a correspondingly long lag time, so it will be impossible to get usable information on long-term recidivism for 5 years. While long-term recidivism is a better indicator, we believe that use of some preliminary definitions and indicators of recidivism should be “rolled out” for departmental, if not public, scrutiny.<sup>28</sup>

Finally, the Governor, Legislature and all involved state and local agencies must make reduction of recidivism a public safety priority. The Strategic Plan reflects the need for legislative reform, but it is not clear to the Advisory Council who in state government will champion those measures. In addition, the Plan speaks to efforts to partner with other agencies, but these efforts are still at a very early stage.

Clearly challenges exist involving budgets, programs, and sharing of information. However, other agencies must recognize the critical responsibilities they share in reducing recidivism in partnership with the DOC. The development and implementation of a statewide strategic plan for prisoner re-entry is integral to this issue to provide the uniformity, partnership and action that is needed to meaningfully reduce re-offense by inmates returning to the community.

**Recommendation #2: The Department should adopt a performance management and accountability system to enhance agency performance, improve the culture, and utilize budget resources more effectively.**

The Commissioner has given much attention to this recommendation, and we are impressed by what has been done in the area of communicating changes to DOC personnel. Despite this emphasis, we are concerned about the budgetary, personnel and

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<sup>28</sup> The DOC currently publishes recidivism data utilizing all three commonly accepted definitions and these reports are available to the public.



practical problems in implementing the plan in five years. Over the next several months, we hope to see more emphasis on what can be done now with existing resources.

For instance, we were concerned that the plan for reallocation of budget resources was relegated to “long term.” We think this should be an on-going process, and occur as information is received. We would like to see more details on budgetary reallocation as soon as possible.

We are also somewhat troubled by the number of “immediate steps” that were postponed “awaiting hiring of management position for Performance Measures.” Also the Project Manager position is “awaiting process required for hiring.” The Strategic Plan recognizes that “full development and implementation can take 5+ years.” That seems correct, given the budgetary and hiring challenges.

The staffing needs and budgetary limitations involved with implementing this recommendation highlight the DOC’s observation – perhaps an understatement -- that “[u]ntil such initiatives can be fully implemented, we must better utilize the wealth of data already generated by the Inmate Management System and other DOC databases by improving data quality and accessibility throughout the Department and producing meaningful reports.” What can be done with existing information and data, because it may well be that the Department will be living with these existing systems for the foreseeable future?

At least initially, we suggest that the DOC’s focus be on utilizing internal data sooner rather than later. As a first step, the DOC could focus on identifying variations within the system by using specific indicators that exist across facilities, such as overtime, sick time, incidents, uses of force, and so forth. Once threshold numbers are established, performance improvement targets can be set, and staff can be held accountable for results. This system can be expanded and improved as gains are made in the areas of budget, data collection and staffing.

**Recommendation #3: The Department’s management capacity should be strengthened through the collective bargaining process and revisions to the internal rank structure.**

The GCCR Report identified two areas for strengthening management capacity. First, several provisions of the current MCOFU collective bargaining agreement (which expired in December, 2003 but remains in effect due to an ‘evergreen’ clause) should be modified to strengthen management rights. In this regard, the Strategic Plan indicates that the state Office of Employee Relations, Executive Office of Public Safety, and Office of Administration and Finance are working with the DOC to establish a bargaining proposal and strategy to restore management rights that were, unfortunately, bargained away over the past decade. This step is crucial for improving the way institutions are managed and for establishing a culture of accountability within the DOC. However,

making meaningful change in the collective bargaining process will most likely be a long-term effort requiring sustained commitment and attention during the negotiation of the next several labor contracts.

Second, the internal rank structure in the DOC should be revised to ensure that Shift Commanders are management, not bargaining unit, positions. The requirement that the DOC operate under the existing terms and conditions of the current labor contract is a significant barrier to change. Solving the problem with recruitment of qualified Directors of Security and other management personnel will require compensation at or near the same level as the union for retirement benefits, salary and other contractual rights (with adjustments to reflect how DOC thinks the system should eventually look). By stepping up in that manner, the DOC could regain some appropriate control, and establish a model for the compensation structure. Ultimately, legislation delineating management employees may be the most efficient way to ensure that the positions that manage the shifts will be designated as management positions. If so, this process should move forward expeditiously.

**Recommendation #4: There should be an external advisory board on corrections to monitor and oversee the Department. The board should work cooperatively with the Commissioner to develop concrete goals for the future of the Department.**

A first step in implementing this recommendation occurred when Governor Romney established the DOC Advisory Council. The Advisory Council is, however, established only by Executive Order and has a “Sunset” provision of September 15, 2005.

## **FISCAL MANAGEMENT**

**Recommendation #5: The Department should take responsibility for bringing down staffing costs and reducing worker absenteeism.**

The GCCR report found that one of the primary reasons for growth in the DOC budget has been rising labor costs, which comprise 73% of the total DOC budget. The high cost of staffing reflects the fact that correction officers use an average of 60 days off per year, of which 52 are paid (including nearly 18 sick days per year). The total cost to the Department for correction officer sick leave usage is approximately \$21 million per year. In light of these data, the GCCR report recommended a number of specific steps the DOC should take to bring down the rate of worker absenteeism, both in the collective bargaining process and through stronger management techniques.

In terms of Industrial Accidents, the GCCR found that as of the end of May 2004, there were 313 workers out on industrial accident leave, which amounted to an average of nearly 13 days per correction officer.<sup>29</sup> From 1998 to 2003, the number of industrial accident claims rose dramatically from 343 “lost time” claims (those where an employee was out 5 days or more), to 1,447.<sup>30</sup>

### ***Sick Leave Reduction***

The most recent sick leave statistics do not reflect an improvement in usage. Over the last year (from 3/21/04 to 4/2/05) the average number of sick days used per officer rose from 17.6 to 18.2 days. The DOC believes that this increase can be attributed to an increase in retirees and use of sick leave prior to the actual retirement date, and anticipates a 10% reduction over the next several months. Indeed, the number of retirees has risen from 190 in 2003, 214 in 2004, to 260 thus far this year,<sup>31</sup> and the DOC has calculated that these retiring officers used an average of 41 sick days this year.<sup>32</sup> Notably, if this group of officers is taken out, the average sick days used per officer is down to 16.<sup>33</sup>

To bring about sustained results in reduced sick leave usage, re-negotiation of the MCOFU contract is crucial. There are several provisions of the existing contract that enable excessive sick leave usage, including a provision for 5 unsubstantiated sick days per officer per year, and the definition of “satisfactory medical evidence.” We conclude that revisions of problematic provisions in the contract must occur in order to bring down the level of employee absenteeism. However, we also agree that interim steps can and must be taken. The DOC has initiated training for all managers regarding effective and fair management of sick leave, FMLA, medical documentation, and tracking techniques. They have conducted reviews with each Superintendent and Division Head to monitor and evaluate progress. In addition, the DOC is working to develop a database to ensure timely identification of possible abusers.

In addition to these measures, we recommend that the DOC continue to develop aggressive steps to reduce sick time usage. For example, when the DOC identifies a pattern that indicates that notes from certain physicians may not be credible, they should notify the physician directly and pursue action with prosecutors and/or the Board of Registration in Medicine.

### ***Industrial Accidents***

Correction officers perform a vital public service that involves inherent risks and dangers. Our hope is that Industrial Accident cases are administered effectively and expeditiously,

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<sup>29</sup> Massachusetts Department of Correction.

<sup>30</sup> Massachusetts Department of Correction, IA History from 1998-2003, (Concord, MA: Research and Planning Division, June 2004).

<sup>31</sup> The DOC believes this retirement trend is due to hiring large classes of officers in the early 1980’s.

<sup>32</sup> Massachusetts Department of Correction, June 8, 2005.

<sup>33</sup> Ibid.

and that any fraudulent claims are weeded out, so that valuable public resources are appropriately devoted to those with legitimate injuries. Where injuries are legitimate, safety measures to prevent them must be considered.

In terms of the DOC's response to industrial accidents, the Strategic Plan states that the DOC has begun the process of increasing the number of Accidental Disability Retirements filed on behalf of employees who will not return to work; improving the shared database for tracking injuries, which has resulted in identification of suspected fraud cases sooner; decreased paid compensation, referring suspected fraud cases to the Attorney General; and is working collaboratively with the Human Resources Division ("HRD") to improve the current process in retuning staff to work as quickly as possible. In addition, the DOC supports legislation to amend the violence pay section of the Workers' Compensation Act to eliminate language which enables staff to actually earn more money (due to compensation at 100% of their full pay, tax free) by staying out of work than they would earn by returning expeditiously once they are able. MCOFU's website boasts that they secured a significant victory by convincing the House of Representatives not to include this language in its state budget and that they will continue to lobby the state Senate to do the same.

Early information suggests that these efforts have been successful. The number of reported injuries has decreased from a high of 1,944 in FY'03 to 1,575 in FY '04 and FY '05 to date is 1,068. In addition, the number of investigations requested on reported injuries has increased significantly from 55 in FY '02 to 528 to date in FY '05. Currently there are 265 DOC employees out on Industrial Accident leave, of which 232 are corrections officers, compared with 313 last year.

We applaud these results. We hope that the DOC keeps the focus on this important issue, so that this downward trend will continue. To this end, we restate the GCCR report's recommendation that the administration of workers compensation cases must "...either be placed under the direct control of the Department or strengthened at the state level. At a minimum, HRD should consider creating a dedicated unit to more effectively manage corrections claims."<sup>34</sup>

The DOC must sustain the focus on reducing employee absenteeism, but cannot bring down excessive staffing costs or worker absenteeism alone. Meaningful cost savings in this area will require affirmative action by the Executive Office of Administration and Finance, Executive Office of Public Safety, Office of Employee Relations, the Human Resources Division, and perhaps even the Governor's Office.

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<sup>34</sup> GCCR report, p. 28.

**Recommendation #6: The Department's budget should be more closely aligned with its mission and priorities. This will enhance public safety in a fiscally responsible manner.**

The GCCR's recommendation called for the DOC to begin re-allocating its budget to address the fact that 73% of the budget was spent on staffing related expenditures, while only 3% of the budget was spent on inmate programs. This allocation does not comport with the Department's mission, which advocates for programs that prepare inmates for successful re-entry and a reduced rate of recidivism. The report concluded that, among other things, reducing overtime expenditures would enable the DOC to reallocate significant funds to preparing inmates for release. Overtime expenditures accounted for 5% of the total staffing budget.

To respond to this recommendation, the DOC initiated the process of evaluating the budget reporting system to identify all expenditures by category. As a result of this change, the FY'05 budget shows an estimate of 11.72%, or over \$50 million of the DOC's appropriation, has been allocated to inmate programming. We believe that the revised reporting system is a valuable tool for tracking expenditures. It will not -- in and of itself -- serve to more closely align the budget with its mission and priorities.

However, we are pleased to report that if grant funding, ISAs from other state agencies, and the inmate program account are included, the total FY'05 estimated expenditure will be over \$54 million for inmate programs. Notably, the DOC and the Parole Board managed to jointly secure \$ 9 million in VOI/TIS funding to promote successful inmate re-entry. Nearly \$3.5 million of these funds were directed to the DOC and are being used to expand and implement Vocational Opportunities for Women, the Correctional Recovery Academy (CRA), Risk/Need Assessment Tool development, the addition of 2 housing specialists, and to assist with transportation to the Regional Re-entry Centers. Moreover, by redirecting appropriated funds at an annual cost of over \$500 thousand, the DOC hired 6 full time teachers and 26 contract teachers in December, 2004 to expand the Inmate Education and Training Division.

We are very pleased with this progress, and hope to see continued creative solutions to bolstering inmate programs and services that will help reduce recidivism. Moving forward, we recommend that the DOC establish a target percentage or dollar amount to reach a programming level which best practice indicates are needed to impact the goal of reducing recidivism for the DOC population.

We are, however, concerned about rising overtime expenditures, as this is a primary source of funding that could be re-allocated. As of April 30, 2005 overtime expenses totaled over \$12 million, with an estimated year-end total of over \$13.7 million. This figure is up significantly from last year's total of \$10.4 million. We understand that the DOC has initiated efforts to reduce overtime costs, such as daily/weekly overtime tracking, and regular meetings between senior management and Superintendents to discuss overtime expenditures. The DOC attributes the escalating overtime problem to officer attrition, stating that 239 Full Time Employees ("FTEs") were lost due to attrition

as of May, 2005. These positions have been backfilled with 198 FTEs, and an additional class of 60 FTEs is anticipated to start in June, 2005.

We strongly restate the suggestion by the GCCR that the DOC hire an independent consulting firm to conduct a complete staffing and post analysis for the Department as soon as possible. Given that the DOC maintains the second highest staff-to-inmate ratio in the nation (2:1), we think the escalating use of overtime dollars could be minimized. A post and staffing analysis would help to bring clarity to this issue.

## **PUBLIC SAFETY AND INMATE RE-ENTRY**

In its review of the DOC, the GCCR found that the Department did not adequately prepare inmates for release back to the community, and failed to hold prisoners accountable for participating in productive activities such as programs, work and treatment. The GCCR also found that the Department's ability to effectively transition inmates and prepare them for re-entry was limited by state laws, sentencing practices and internal DOC policies. Finally, the GCCR observed that post-release supervision strengthens inmate re-entry and is especially necessary for inmates who are at a high risk for re-offense.

### **Recommendation #7- The Commonwealth must view reducing the rate of re-offense by returning inmates as one of its highest public safety priorities.**

In its report, the GCCR suggested that steps be taken to reduce re-offending including targeted programming, "step-down," and supervised release. Although the DOC has a vital role to play in ensuring that inmates participate in programs designed to reduce recidivism, and transition back to the community in the most effective manner possible, it cannot do it alone. Many other agencies and organizations have equally significant roles and responsibilities and they must also make reduction of recidivism a priority.

State and local agencies such as Parole, Probation, the Department of Public Health, the Department of Mental Health, Police Chiefs, District Attorneys, and community-based service providers have important roles to play in ensuring that inmates are reintegrated and monitored effectively in the community. The DOC can and must build strong partnerships with these agencies. However, these agencies must also make re-entry a public safety priority.

In January 2004, The Governor's Commission on Criminal Justice Innovation published its report. The Commission called for re-entry planning and eliminating barriers to successful reintegration. It specifically recommended sentencing reform, the use of a validated risk/need assessment tool, improved inmate classification, housing, vocational training, mental health and substance abuse treatment. Currently, the Executive Office of Public Safety is overseeing the development of a re-entry plan for public safety agencies, focusing on issues identified by the GCCR and the Commission on Criminal Justice Innovation, and is looking to expand that effort to include partners serving common

populations. We hope that this plan will spur other stakeholders to focus on the re-entry of prisoners, for without their assistance the Department cannot fully succeed.

**Recommendation #8 – The Department should adopt a comprehensive re-entry strategy including risk assessment, proven programs, “step-down”, and supervised release.**

In December 2003, the Department revised its mission to state that it will “...promote public safety by incarcerating offenders while providing opportunities for effective programming to reduce recidivism.” In October 2004, the DOC convened an internal Re-entry Task Force to review current practices, programs and spending, and draft a re-entry policy that will codify current initiatives and help operationalize new policies and procedures for each institution and division.

The DOC anticipates that the adoption of a revised and validated instrument for inmate classification will eliminate many of the current administrative barriers to moving inmates to lower security facilities. The Department, along with Parole and the Sex Offender Registry, is also attempting to develop a risk/needs assessment tool.<sup>35</sup> If adopted by other criminal justice agencies, the standardized assessment tool would further support re-entry.<sup>36</sup>

The Department is currently reorganizing its staffing patterns to integrate preparation for re-entry into institutional operations. It has redeployed Re-entry Case Managers back to the facilities. Also, the job description for the Correction Program Officers (“CPOs), who manage and oversee each inmate’s Risk Reduction Plan, now reflects preparation for re-entry as a core responsibility. The Correction Program Officers are responsible for: the interagency release planning “triage process” with Parole, DPH and DMH; formulating the Discharge Plan; making necessary referrals to MassHealth and the SMOC housing program; and working with community programs to support the inmate’s transition into the community. In addition, CPOs now participate and provide information at parole hearings and have received specialized training around case management.

The Department is reviewing all of the programs it currently offers inmates.<sup>37</sup> It will also consider increasing the number of programs for which good time credits may be earned, and is investigating the introduction of new faith-based and vocational programs. The DOC anticipates that program expansion will be organized around research on effective interventions, and will be built upon a strong collaboration with external stakeholders and broad-based use of volunteers. We suggest that the DOC might also be able to expand

<sup>35</sup> This tool should include an evaluation of housing, mental health, substance abuse service needs, and other factors known to impact recidivism.

<sup>36</sup> We strongly support the inclusion of police departments as part of a single system-wide risk/need assessment strategy. This will expand knowledge of the individual’s behavior post-release.

<sup>37</sup> We suggest that the DOC consider the following when it reviews its current programs: Which programs have consistently long waiting lists, and what can be learned from the demand? Which programs are not offered in certain facilities and why? Is there a presumption that the security level of a facility will determine the programs offered within it, and, if so, is the presumption reasonable?



inmate work and training crews with paid staff as the mentors/employers/teachers. We support the Department's efforts to move toward providing prompt access to constructive programs so that inmates do not languish on waiting lists as they serve out their sentences.

It is significant to note that a joint effort between DOC and Parole produced a new discharge protocol for inmates leaving state prison. Prior to release, inmates are provided with an opportunity to apply for MassHealth cards, housing plans are verified, and Parole is notified. Upon discharge all inmates – including those leaving prison without subsequent supervision -- are transported to one of Parole's eight Regional Re-entry Centers (RRC) near their home communities. At the RRC, inmates meet with a Parole re-entry case manager. Parole is currently developing and coordinating the range of services to be offered, but supervision and case management will be key components of release. The DOC and Parole are working together with local police departments and community and faith-based organizations to identify community-based mentors to support the release process, in particular mentors who can work with inmates while they are in custody and maintain contact post-release. We would like to follow these initiatives and learn more about the results as they progress.

The DOC has collaborated with agencies within the Executive Office of Health and Human Services to provide assistance with applications for mental health and substance abuse services. In addition, the Department has been working with faith-based organizations to improve community-based services and identify mentors to assist in re-entry.

The Council recognizes that the DOC has made considerable progress in moving the re-entry plan forward and addressing issues related to over classification that are within its control. In addition, we suggest that the Department or the Executive Office of Public Safety conduct a national review of best practices supported by research for reducing recidivism and also review the Urban Institute's work on prisoner re-entry.

**Recommendation #9 – The Department should hold inmates more accountable for participation in productive activities designed to reduce the likelihood that they will re-offend.**

The DOC recognizes the necessity of communicating incentives and clear long-term goals for participation in productive activities to inmates from the beginning of their time of commitment. The Department is currently revising the inmate orientation process at both MCI Concord and MCI Framingham intake centers. One of the objectives of the new system will be to motivate inmates to use their time productively by participating in programming. Spectrum Health Systems, Inc. has designed an orientation program that contains a curriculum that addresses institutional rules, regulations, policies and procedures, and also concepts of motivational enhancement that assess what the inmates value, how they can achieve their goals and maintain their motivation to change.



The Department has created a workgroup under the direction of an Assistant Deputy Commissioner to investigate best practices that encourage and reward program participation by inmates. The DOC is also conducting a comprehensive review to determine whether earned good time is an effective motivational tool for offenders. The DOC is also considering expanding the criteria under which programs can be considered for earned good time by reviewing best practices in other states and counties. Increasing the amount of earned good time for which an inmate can be eligible may require legislative change.

The DOC's Associate Commissioner for Re-entry and Reintegration and classification staff visited the Hampden County House of Correction to learn more about its re-entry program and the DOC is considering adopting relevant components of that program. Relevant components of both the state and Hampden County classification systems were reviewed to determine whether the "step-down" process for state inmates assigned to the Hampden County House of Correction can be improved.

**Recommendation #10 – The Commonwealth and the Department should revise sentencing laws and DOC policies that create barriers to appropriate classification, programming, and "step-down."**

The GCCR found that "successful re-entry of prisoners back to the community is limited by state sentencing laws and practices, as well as DOC policies, which directly impact inmate classification, programming options, pre-release, and supervised release. The DOC will be unable to fully implement a comprehensive re-entry plan until these areas are revised."<sup>38</sup>

The DOC has made progress in revising many of the internal policies that restricted effective programming, placement and step-down. The Department's policies are currently being revised to enable inmates to transition through lower security facilities into community based programming, and the pending implementation of a new, objective, point-based classification system is a key component of this effort. Classification restrictions for the Public Safety Security Program and security risk ratings will be eliminated as the new system is implemented. The DOC has also revised its policies and practices to reduce classification barriers for female inmates, Security Threat Groups (STG), substance abuse, and infractions for possession of tobacco products. This has resulted in an increase in suitable inmates moving to lower security facilities, and a significant waiting list for inmates classified to minimum and pre-release status.

In addition, the DOC sees opportunities for collaboration with county corrections which would allow DOC inmates to transfer to lower security county facilities located closer to their home communities. There are several state inmates in the Hampden County House of Correction and inmates will also be returning to the Suffolk County House of Correction. Another outcome of that collaboration could be the unification of assessment and classification strategies across the state and county systems.

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<sup>38</sup> GCCR report page 43.

However, we remain highly concerned that at the time of the GCCR report, 84% of the inmate population was restricted by law from participating in pre-release programming (i.e., work release, education release and pre-release centers).<sup>39</sup> Statutory restrictions, set forth in greater detail in Part II of this report, are incorporated in legislation related to mandatory minimum sentences, parole eligibility, prohibited crimes, and work release limits. In addition, state prison sentences with short spreads between minimum and maximum sentences can effectively preclude appropriate step-down and parole supervision for suitable inmates.

As the GCCR Report specified, there are numerous ways to achieve sentencing reform, to eliminate the practices and policies which serve as an obstacle to “step-down,” programming and post-release supervision. Ultimately, revision of the sentencing laws is contingent upon action by the Legislative and Executive branches and we urge swift action in this area. We urge the Legislature, Governor, District Attorneys, Sheriffs, advocacy groups, members of the public, and others to work quickly to enact sentencing reform. This can be accomplished without reducing the length of prison sentences. Improved re-entry will enhance public safety for Massachusetts citizens by reducing the rate of re-offense by returning inmates.

Furthermore, with Executive and Judicial support, more accurate standardized assessments of specific offender groups, such as violent offenders, sex offenders, and non-violent drug offenders, could be developed, allowing for sentences that maximize public safety and increase chances for successful re-entry. We hope that the DOC and the Executive Office of Public Safety continue to give priority to working with the District Attorneys on sentencing, and on developing protocols and timelines for communicating about the status of sexual offenders in DOC custody.

**Recommendation #11 – The Commonwealth should establish a presumption that DOC inmates who are released are subject to ongoing monitoring and supervision.**

The DOC is in the process of implementing a re-entry system that will provide programs and services to inmates with the objective of addressing their specific needs and reducing their risk of re-offense.<sup>40</sup> These increasingly individualized plans underscore the need for

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<sup>39</sup> Massachusetts Department of Correction, *Policy and Statutory Restrictions Impact on Inmate Placement*, (Concord, MA: January 2004)

<sup>40</sup> There currently are some DOC policies and programs designed to facilitate re-entry. At the time an inmate is committed, the Department currently performs a risk/need assessment and develops a risk reduction plan, and for over three years, re-entry case managers have facilitated triage and discharge planning. For almost two years, the Department has had a contract with the South Middlesex Opportunity Council (SMOC) to provide housing to inmates who are at risk of homelessness at discharge. For over five years, DMH’s Forensic Transition Team has helped inmates with serious and persistent mental illness find inpatient or community services upon discharge.

post release supervision and for establishing community contacts. The DOC is currently partnering with Parole<sup>41</sup> to provide post release supervision whenever possible.

A key recommendation of the GCCR report and the Governor's Commission on Criminal Justice Innovations was that all inmates discharged from correctional custody should be subject to post release supervision. That recommendation will require legislation regarding sentencing and mandatory post release supervision, and we support swift legislative action in this regard. However, supervision alone will not reduce recidivism. It must be accompanied by appropriate treatments and interventions and graduated sanctions for violations. In addition, we need government sponsored programs in public housing areas and job training geared to this special population.

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**Recommendation #12 – There should be a dedicated external review of inmate health and mental health services.**

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The review of inmate health and mental health services is being conducted by a panel that has been organized by the Department of Correction in consultation with the Advisory Council. In addition to two members of the Advisory Council, the panel is composed of representatives from the Department of Mental Health, the Department of Public Health, local medical schools, a medical and dental society, industry groups and private clinicians. The DOC has agreed to facilitate access to policies, documents, records, interviews and facilities that are relevant to the panel's review and has assigned several staff members to the panel. The panel met for the first time on March 23, 2005, and the DOC anticipates that its work will be completed before the Advisory Council submits its final report.

Substance abuse is an enhancing risk factor for dangerous behavior in both the non-mentally ill and mentally ill populations, but there is a particular need to assure integration of mental health, substance abuse treatment and operations within the DOC.<sup>42</sup> In addition, the elimination of alternative community programs for the treatment of addiction and serious mental illness has created problems of great magnitude for the Department. These problems deserve special focus from the panel.

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**Recommendation #13 – There should be a dedicated external review of issues pertaining to female offenders in the Department's custody.**

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The review of issues pertaining to female offenders is also being conducted by a panel that has been organized by the Department of Correction in consultation with the Advisory Council. The panel is composed of two members of the Advisory Council and

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<sup>41</sup> We encourage the Executive Office of Public Safety, the DOC and Parole to explore similar opportunities for collaboration with Probation.

<sup>42</sup> At MCI Framingham, Spectrum House is the substance abuse provider and UMass is the mental health provider. There is minimal contact between the two programs which results in fragmented services. There is also a disconnect between the requirements of some of the DOC's operational systems on inmates with mental illness. A clear vision of the relationship among these sectors must be established. The DOC might consider an RFR for a plan to integrate services.

stakeholders and policymakers from across the Commonwealth. The panel's review will include an assessment of the female population, overcrowding issues, the booking and admission process, gender specific medical needs, operations, services, programs, re-entry and recidivism, and budget. The panel met for the first time on March 14, 2005 and is scheduled to offer its findings and recommendations to the Advisory Council by August 1, 2005.

## **FAIR AND CONSISTENT POLICIES AND PRACTICES**

In its review of the DOC, the GCCR found that many of the Department's policies, procedures and practices were not fair and consistent, including those related to inmate classification, discipline and grievances. The Department's policies and practices were also found to be inadequate to ensure the safety of inmates in protective custody.

The GCCR also observed that the Department's systems for oversight and accountability were deficient, including those related to investigations and data integration. Another major finding was that effective communication with inmates was inhibited by a limited bilingual work force, which we thought might impact institutional security.

**Recommendation # 14- The Department should ensure that policies and procedures, including those related to inmate classification, discipline, and grievances, are transparent, well-communicated, have specified appeals processes, and are implemented by staff who are appropriately selected, trained and supervised.**

The Department has made considerable progress in evaluating and revising its policies and procedures related to inmate classification, discipline, and grievances.

### ***Classification***

The Council urges the DOC to adopt an objective point-based classification system as soon as possible to replace the current, highly discretionary process. Most prison systems in the country use such a point-based system for classification. Such systems are research-based, and designed to minimize disturbances within the prison system, to ease prison administration, and to facilitate step-down prior to release. In addition, if consistently applied, these systems are transparent to staff and to inmates.

In November 2002, the Department asked the National Institute of Corrections (NIC) to help conduct a comprehensive review of the current classification system. As a result, Dr. James Austin of George Washington University reviewed the classification system, and helped the DOC devise a proposal for a comprehensive, objective classification system based on "best practice". The DOC began to conduct pilot tests of the new classification instrument in August 2004 and convened a working group of stakeholders and staff to

review and revise the current classification regulations. The resulting new classification system is scheduled to be implemented and validated in 2005.

We support the Commissioner's effort to obtain outside consultation to bring "best practice" to the DOC. We have not seen the details of the proposed classification policy, so we cannot yet comment on the particulars. We are hopeful, however, that the new policy will support the other efforts of the department to place inmates in correctional settings that are appropriate to their current level of risk to public safety so that programming options can be developed to help prepare inmates for release with the goal of improving public safety in the long term. Because many important initiatives, including those related to re-entry and the review of DOC's facilities, will be founded on the new classification system, we urge that it be adopted as soon as possible.

Even in the absence of a revised classification policy, the Commissioner has made substantial improvements in classification practice which together are improving the operation of the DOC. The DOC's review of the current system has resulted in the closure of several facilities and a shift in bed vacancies. Currently, there are more than 200 inmates on the waiting list for minimum or pre-release settings. Furthermore, the formulation of criteria for placement in maximum security facilities has resulted in an increase of vacant beds at MCI-Cedar Junction. Another important indicator of the DOC's success is that the percentage of inmates who were released from a minimum security setting increased from 26% in 2002, to 35% in 2005.

Better methods of exchanging information with other agencies and organizations would further improve the classification process. For example, the DOC would like to establish an electronic interface with the court system and jails. The existing process would also be more effective if a comprehensive records management and sentence computation certification process was implemented.

### ***Discipline***

The DOC established an Inmate Disciplinary Workgroup composed of members of its staff and members of the Harvard Prison Legal Assistance Program and the Northeastern Prison Program. The working group has completed a review of the current disciplinary system and agreed on components of a new system, with the goal of creating a system that is fair, credible and impartially administered. A draft of a new disciplinary regulation that reflects best correctional practices and represents the core values of the DOC has been completed and is awaiting final review. It is expected that the DOC will have fully implemented and conducted an initial evaluation of the new disciplinary system by January 2006.

As noted earlier, an impediment to implementation of the new system is internal resistance and cultural bias. The new system may be viewed as limiting staff powers and being "soft" on inmates, even though effective, fair discipline is deemed to be a key ingredient of any responsible correctional system, and the discipline problems with the current system created the crisis that brought us here. Union support is necessary because

the proposed new Central Disciplinary Unit, which is designed to function outside of the culture of the correctional facilities, and was a major recommendation of both the GCCR and the panel that investigated the death of John Geoghan, cannot be staffed without successful collective bargaining.

As with classification, integrated information systems will improve the disciplinary process. Sharing information with other key agencies will allow the DOC to conduct statistical analysis, and audit and monitor the disciplinary process to identify trends, practices and areas of concern.

### ***Grievances***

The DOC has revised its grievance policy based on best practice for effective grievance and resolution systems. The new policy has been piloted in four sites along with an auditing system for tracking and analyzing data to identify trends and address systemic issues.<sup>43</sup> With this new information, the Department's Office of Administrative Resolution has been able to identify and resolve a number of policy and practice issues and the staff assigned to that office has established a more effective and comprehensive system of investigating and solving problems. Finally, the Department has established a certification process for grievance coordinators. As a result of all of these efforts, the approval rate for inmate grievances has risen from 9.2% to 22.8%.

The DOC's culture is also a barrier to making the grievance system more fair and consistent. If the system is to change in a meaningful way, the department must overcome the perception that inmates do not deserve fair treatment, staff resistance to divulging information about inappropriate conduct by fellow employees and a lack of cooperation between facilities, although some progress has reportedly been made in this front. Furthermore, the elimination of Unit Management has resulted in a decreased ability to resolve issues at the lowest level. Finally, although the plan for a Communication Tracking/Trend Analysis database represents progress, once implemented its effectiveness will be dependent on other data bases and staff compliance with expectations for its utilization.

**Recommendation #15 - The Department should ensure that policies and procedures are properly implemented through oversight and accountability systems, including an independent investigative authority, data management, and unit management.**

### ***Independent Investigative Authority or Inspector General***

An externally positioned Inspector General, as recommended by the GCCR report, would provide oversight and objective review of internally conducted investigations. However, the establishment of an independent investigative authority or inspector general requires

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<sup>43</sup> There has been a statistically significant improvement in the approval rate for grievances which is an indication of a more "fair and consistent" grievance system.

legislation. We strongly support establishing an independent Inspector General and urge the Executive and Legislative branches to act. Both the Advisory Council and the DOC should have input on the language of any legislation establishing an Inspector General, to ensure that the office would have the capacity, resources and authority to operate effectively.

### ***Internal Investigative Process***

A DOC investigations working group conducted a best practices review of Internal Affairs Investigative Units which included site visits to many locations.<sup>44</sup> That working group then drafted an Internal Affairs Investigations policy which was reviewed by an NIC consultant who provided comments and recommendations in a formal report. In October 2004, the DOC revised its Internal Affairs Unit's policy, operations and practices. In February 2005, the Department established a database for centralized reporting and tracking of allegations and investigations of employee misconduct in the Internal Affairs Unit ("IAU") of the Office of Investigative Services.<sup>45</sup> According to the Department, a restructuring and expansion of the Office of Investigative Services and the Internal Affairs Unit is pending. An RFR to develop an operations manual for investigators has been awarded, and all DOC staff involved in the investigative process is scheduled for training.

### ***Data Management Systems***

According to the Department, its budget and technical staffing levels are insufficient to develop and maintain a data management system as comprehensive as the one recommended in the GCCR report. However, the Department's Inmate Management System (IMS) is now in operation at all of its institutions.<sup>46</sup> The IMS system will provide a foundation for the development of a more comprehensive data management system, when the DOC is able to obtain sufficient funding. Other applications must be developed to track data necessary to measure progress in operational and administrative areas of concern.

In addition, the DOC has created and tested a web service data exchange to connect it with other stakeholders.<sup>47</sup> A number of these exchanges will need to be developed to support the Department's re-entry initiatives. The DOC anticipates that full implementation of a data management system will be a multi-year initiative due to technical issues, equipment, staff and budget concerns. It has, however, identified necessary expenditures and developed a three-year spending plan to support it.

### ***Unit Management***

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<sup>44</sup> The site visits included the following locations: Lowell Police Department; Boston Police Department; Massachusetts State Police; and the Essex County Sheriff's Office.

<sup>45</sup> The database contains all of the complaints of employee misconduct that have been recorded since September 2003.

<sup>46</sup> The DOC has also established a call center to provide information and technical support to IMS users.

<sup>47</sup> These other stakeholders include Parole, the courts, CHSB, the State Police, SORB, DOR, DMH, DS, INS and other human service providers and local law enforcement

The Commissioner of the DOC has stated that she supports the Unit Management system which relies on teams comprised of security, treatment and program staff to plan for all aspects of the care, custody, classification, and re-entry of the inmates in a particular unit. However, the Unit Management system would require additional staff and the DOC must be able to significantly reallocate its budget, or it must receive increased funding, in order to implement it. The implementation of such a system is currently a long term goal of the Department.

**Recommendation #16 - The Department should conduct a system-wide facility review to ensure that its physical plant is consistent with the security needs of the staff and the inmate population, and the Department's mission.**

The Department plans to conduct a physical plant assessment in conjunction with their review of the classification system. After the classification assessment is complete, the Department will have more accurate information about the total inmate population's assessed custody levels. At the same time, the DOC plans to re-evaluate its criteria for the designation of the security ratings of its physical plant. In the interim, the DOC has updated the 1999 Perimeter Security Assessment, and the July 2003 Facility Design Capacity Study. It has also conducted a survey of best practices and developed a scope of study for a system-wide facility review. The impact of the DOC's facility assessment will be more significant if the county sheriffs also participate in a concurrent assessment of their joint classification policies and physical plants.

Finally, the DOC and EOPS have met with the Department of Capital Planning and Management to explore a capital plan for corrections. This is particularly important as the DOC attempts to deal with burgeoning populations, such as female inmates, sexual offenders, and inmates with serious medical and substance abuse problems.

**Recommendation #17 - The Department should adequately protect and care for inmates in protective custody.**

The Department has established clearer internal review processes to monitor the population in protective custody. It also recently developed new guidelines regarding placement and classification in the Souza Baranowski Correctional Center (SBCC) and MCI- Concord Protective Custody units. The DOC anticipates that these guidelines will help eliminate the problem of mixing inmates from different security levels, which was one of the causes of the murder of John Geoghan.

New levels of review have been created to allow facilities to more accurately assess issues related to placement. Prior to transfer, an inmate's name is sent to the Superintendent to allow the new facility to evaluate the placement. On the day that the inmate arrives, the facility interviews the inmate and reviews the case again to see if the



placement is appropriate. Every week, the Deputy Superintendent of Treatment and Classification chairs a panel which reviews each inmate's case and determines if continued placement in the unit is necessary and appropriate. This panel also reviews the internal operations of the unit and reports to the superintendent.

The Department is currently reviewing the option of relocating the protective custody unit at MCI-Concord to the Old Colony Correctional Center (OCCC) on the Bridgewater Complex. According to the Department, a unit at OCCC would have many advantages. The protective custody inmates would be in a unit that would be totally separate from the general population. They would be able to attend activities without being viewed by inmates from other units, and their recreation area would be adjacent to their unit which would further limit their exposure to other inmates.

The Department and MCOFU agreed to add a staff position at SBCC to work the corridor and escort protective custody inmates to and from the unit to other locations for programs and appointments. However, the ability of the DOC to make staff assignments continues to be restricted by the current collective bargaining agreements. The agreements prohibit management at some of the institutions from selecting staff that are best suited to work with the specialized population in protective custody. The DOC would like to address this problem by increasing the number of "superintendent pick" positions.

Finally, it is important to note that the DOC has adopted a new policy to ensure that investigations are conducted to document all future enemy situations. The new policy, which is currently operational, requires IPS teams to investigate conflicts cases and determine if they are valid. Once they have been authenticated, the conflicts are logged into the IMS system.

**Recommendation #18 - The Department should increase the linguistic diversity and cultural competence of its workforce.**

In 2004, Commissioner Dennehy appointed a senior Latino manager as Acting Director of Affirmative Action for the Department. The DOC reports that it has streamlined the recruitment process and is emphasizing linguistic and cultural diversity. According to the DOC, there has been a resulting increase in acceptance, support and cooperation from the facilities where managers and line-staff have begun to acknowledge the need to recruit diverse staff.

The Department recently initiated an effort to recruit minority applicants to take the March 2005 correction officer examination. As a result, 21% of the 1,511 applicants who signed up for the exam were minority applicants. Of those, approximately 10% were Hispanic, an increase of approximately 7% from 2004. The Department also established a database to track and follow-up with candidates interviewing for positions.

In addition, the Department established an advisory committee to identify practices that will improve the DOC's ability to address the needs of its Hispanic, non-English

speaking population. Based in its review, the committee will make recommendations to the Commissioner.

The Department anticipates that full implementation of systemic changes to increase linguistic diversity and cultural competence is feasible within five years, contingent upon the removal of known barriers to the system. According to the DOC, the most significant barriers to implementation continue to be the agency's culture, staff resources, union resistance and "turf issues."

#### **IV. CONCLUSION**

The GCCR report set forth an extensive plan to enhance public safety by reducing the rate of re-offense among inmates who return to our communities. The eighteen recommendations of the report involve establishing a comprehensive re-entry focus, improving accountability for managers, staff, and inmates, ensuring fairness and consistency in policies and practices, and instituting fiscal discipline. All of the recommendations, which were intended to be instituted together, support the ultimate goals of enhancing public safety and fiscal responsibility.

In nearly one year's time, the DOC has made important strides in implementing many of the eighteen recommendations of the GCCR report that are within its control. At this relatively early stage, our assessment is largely based upon improvements to process and policy. There are a handful of measures, set forth in Part II of this report, which would indicate to the Advisory Council that the implementation is yielding results consistent with our recommendations. We would like on-going updates and data on those indicators, along with specific outcomes the DOC will target.

We also hope to continue to see focus on shorter-term measures of improvements. The Advisory Council is concerned that in the strategic planning process the DOC has identified barriers to long-term improvements in certain areas, without also explicitly acknowledging that short-term improvements can be made in these areas at the same time that the Department seeks to eliminate barriers identified (whether they be statutory, financial, or cultural). Specifically, we are interested in what actions can be taken now to implement the spirit of the GCCR's recommendations, even under existing conditions and with existing barriers and resources.

In our final report, we intend to review and utilize the products from the working groups on female inmates and health and mental health issues to make recommendations concerning these important topics. These working groups have put a great deal of effort into reviewing information and developing proposed recommendations, and we are looking forward to the opportunity to thoroughly consider this work. In addition, we hope that in the near future the DOC will adopt an objective, point-based classification system that meets national "best practice." Such a system will help promote prison safety and security and facilitate effective step-down prior to release.

Finally, while much progress has clearly been made, the DOC cannot accomplish the recommendations of the GCCR report without action by others. In the short-term, we urge all relevant stakeholders to take action on the following priority items:

- A DOC budget that reflects the funding level set forth in House 1;
- The establishment of an Inspector General for Corrections that is crafted with input from the DOC and Advisory Council;
- Legislation to remove barriers to effective re-entry and expand supervised release of inmates;

- The establishment of a statewide re-entry plan to serve as a blueprint for all relevant agencies and calling for close linkages with community-based service providers and agencies; and
- The ratification of a correction officer's labor contract that embraces modifications set forth in the GCCR report to enhance accountability, strengthen management authority, and promote fiscal responsibility.

In our view, an important opportunity exists to strengthen public safety by breaking the continuous cycle of crime and re-incarceration. Although barriers exist, we hope that the relevant stakeholders will engage with the DOC in implementing the recommendations of the GCCR report, and addressing this complex, but crucial, public safety problem. This is about safe streets, safe neighborhoods and safe homes “outside”, as well as safe working and security environments “inside”. John Gardner, the Founder of Common Cause, wrote the following about leaders and leadership: “Life is full of golden opportunities masked as insurmountable obstacles.” This is one of those “golden opportunities” and our challenge is to seize this moment to dramatically improve public safety. It can be done, if we have the will and the requisite sense of urgency.”